

AGREEMENT
BETWEEN
THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA
AND
THE NATIONAL AGENCY FOR NEW TECHNOLOGIES, ENERGY AND
SUSTAINABLE ECONOMIC DEVELOPMENT
OF THE REPUBLIC OF ITALY
CONCERNING
HYDROGEN-METAL ALLOY INTERACTIONS

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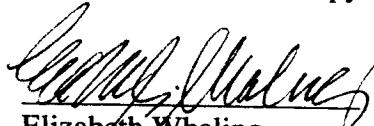

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PREAMBLE

The Department of Defense of the United States of America (U.S. DoD) and the National Agency for New Technologies, Energy and Sustainable Economic Development of the Republic of Italy (ENEA), hereinafter referred to as the "Parties":

Having a mutual need for, and common interest in, research of hydrogen as a potential fuel for lightweight, environmentally friendly, high-power density sources that may have defense applications;

Recognizing the benefits to be obtained from standardization, rationalization, and interoperability of military power source equipment;

Desiring to improve their conventional defense energy capabilities through the application of emerging technology;

Having independently conducted research, exploratory development, and testing of the applications of various hydrogen energy source technologies,

Recognizing the benefits of cooperation in research, development, and testing of Hydrogen-Metal Alloy Interactions;

Have reached the following agreement:

ARTICLE I

DEFINITIONS

The Parties have agreed upon the following definitions of terms used in this Agreement:

Atomic Force Microscopy	A nanometer resolution surface scan using a proximity probe.
Calorimetry	The science of measuring the heat of chemical reactions or physical changes.
Classified Information	Official Information that requires protection in the interests of national security and is so designated by the application of a security classification marking. This Information may be in oral, visual, magnetic, or documentary form or in the form of equipment or technology.
Confocal Microscopy	An optical imaging technique used to increase micrograph contrast and reconstruct three-dimensional images.
Contract	Any mutually binding legal relationship under national laws that obligates a Contractor to furnish supplies or services, and obligates one or both of the Parties to pay for them.
Contracting	The obtaining of supplies or services by Contract from sources outside the governmental organizations of the Parties. Contracting includes a description (but not determination) of supplies and services required, solicitation and selection of sources, preparation and award of Contracts, and all phases of Contract administration.
Contracting Agency	The entity within the governmental organization of a Party that has authority to enter into, administer, or terminate Contracts.

Contracting Officer	A person representing a Contracting Agency of a Party who has the authority to enter into, administer, or terminate Contracts.
Contractor	Any entity awarded a Contract by a Party's Contracting Agency.
Contractor Support Personnel	Persons specifically identified as providing administrative, managerial, scientific, or technical support services to a Party under a support Contract.
Controlled Unclassified Information	Unclassified Information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. It could include Information that has been declassified but remains controlled.
Cost Ceiling	The maximum amount of financial and non-financial contributions that will be dedicated to the Project.
Defense Purposes	Manufacture or other use by or for the armed forces of either Party's Government. "Other use" will include the Parties' authorization of agencies of their respective federal Governments to access and use Project Foreground Information for the purpose of developing, testing, and using hydrogen as a fuel for high-power density sources with potential military or civilian applications.
Designated Security Authority (DSA)	The security authority designated by national authorities to be responsible for the coordination and implementation of national industrial security aspects of this Project.
Electron Backscattering	Normally performed with a scanning electron microscope, this technique provides a rough spatial map of elemental mass on the surface of a specimen or crystallographic orientation of the surface.
Financial Costs	Project costs met with monetary contributions.

High Resolution Mass Spectrometry	Measurement with a mass spectrometer having enough resolution to separate helium and hydrogen masses.
Inductively Coupled Plasma Mass Spectroscopy	A type of highly sensitive mass spectrometry that is capable of determining the isotopic abundances in materials.
Information	Knowledge that can be communicated by any means, regardless of form or type, including, but not limited to, that of a scientific, technical, business, or financial nature, and also including photographs, reports, manuals, threat data, experimental data, test data, computer software, designs, specifications, processes, techniques, inventions, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations, whether in magnetic tape, computer memory, or any other form, and whether or not subject to Intellectual Property rights.
Intellectual Property	In accordance with the World Trade Organization Agreement on Trade-related Aspects of Intellectual Property Rights of April 15, 1994, all copyright and related rights, all rights in relation to inventions (including Patent rights), all rights in registered and unregistered trademarks (including service marks), registered and unregistered designs, undisclosed Information (including trade secrets and know-how), layout designs of integrated circuits, geographical indications, and any other rights resulting from creative activity in the industrial, scientific, literary, and artistic fields.
Non-financial Costs	Project costs met with non-monetary contributions.
Optical Microscopy	Microscopy using a type of microscope which uses visible light and a system of lenses to magnify images of small samples.

Optical Scattering Power Spectra	A method of Fourier transformation of optical scattering data that provides average roughness and length correlations of surface features. Fourier transformation converts the light scattering intensity as a function of angle to the surface into a power density versus wavelength of light.
Palladium Foils and Compounds	Palladium-based materials in any form.
Party	A signatory to this Agreement represented by the military or civilian personnel of its Government. Contractors and Contractor Support Personnel shall not be representatives of a Party under this Agreement.
Patent	Grant by any Government or a regional office acting for more than one Government of the right to exclude others from making, using, importing, selling, or offering to sell an invention. The term refers to any and all patents including, but not limited to, patents of implementation, improvement or addition, petty patents, utility models, appearance design patents, registered designs, and inventor certificates or like statutory protection, as well as divisions, reissues, continuations, renewals, and extensions of any of these.
Project	The cooperative efforts of the Parties under this Agreement to achieve the objectives in Article II (Objectives) and accomplish the work in Article III (Scope of Work).
Project Background Information	Information not generated in the performance of the Project.
Project Equipment	Any material, equipment, end item, subsystem, component, Special Tooling, or test equipment jointly acquired or provided for use in the Project.
Project Foreground Information	Information generated in the performance of the Project.

Project Information	Any Information provided to, generated in, or used in the Project.
Project Invention	Any invention in any field of technology, provided it is new, involves an inventive step, is capable of industrial application, and is formulated or made (conceived or "first actually reduced to practice") in the course of work performed under a Project. The term "first actually reduced to practice" means the first demonstration, sufficient to establish to one skilled in the art to which the invention pertains, of the operability of an invention for its intended purpose and in its intended environment.
Project Plan	A document prepared by the Project Managers and approved by the Steering Committee that provides a description of the Project's delivery requirements and milestones.
Prospective Contractor	Any entity that seeks to enter into a Contract to be awarded by a Party's Contracting Agency and that, in the case of a solicitation involving the release of export-controlled Information, is eligible to receive such Information.
Scanning Electron Microscopy	Microscopy using a type of electron microscope that takes images of the sample surface by scanning it with high energy beams of electrons and detects secondary electrons emitted by the surface.
Secondary Ion Mass Spectrometry	Depth profile of isotopic impurities in a surface.
Special Tooling	Jigs, dies, fixtures, molds, patterns, tapes, gauges, other equipment and manufacturing aids, and all components of these items that are of such a specialized nature that without substantial modification or alteration their use is limited to the development or production of particular supplies or parts thereof or to the

performance of particular services and excluding material, special test equipment, facilities (except foundations and similar improvements necessary for installing Special Tooling), general or special machine tools, or similar capital items.

Third Party	A government other than the Government of a Party and any person or other entity whose government is not the Government of a Party.
X-ray Diffraction	The scattering of X-rays by the atoms of a crystal; the diffraction pattern shows the structure of the crystal.
X-ray Florescence	The emission of characteristic secondary or fluorescence X-rays from a material that has been excited by bombarding it with high-energy X-rays or gamma rays. It is used for elemental identification in materials.
X-ray Photo-Electron Spectroscopy	Surface chemical analysis using X-ray generated photo-electrons.

ARTICLE II

OBJECTIVES

2.1. The overall objective of this Project is to investigate the use of hydrogen as a potential fuel for lightweight, environmentally friendly high-power density sources by pursuing the following specific objectives:

- 2.1.1. Identification of the source of anomalous effects in hydrogen-metal alloys.
- 2.1.2. Determination of chemical, nuclear, thermal, electrical, or micro-structural variables and mechanisms that contribute to the anomalous effects in hydrogen-metal alloys.
- 2.1.3. Investigation of the potential technological applications of the anomalous effects in hydrogen-metal alloys as they relate to national defense.

ARTICLE III

SCOPE OF WORK

3.1. The overall work to be carried out under this Agreement includes:

- 3.1.1. Provision of procedures for fabricating Palladium Foils and Compounds.
- 3.1.2. Characterization of Palladium Foils and Compounds before and after selected steps in the foil fabrication procedure using X-ray Diffraction, Optical Scattering Power Spectra, Scanning Electron Microscopy, X-ray Florescence, Optical Microscopy, Electron Backscattering, indentation hardness, Confocal Microscopy, Inductively Coupled Plasma Mass Spectroscopy, High Resolution Mass Spectrometry, X-ray Photo-electron Spectroscopy, Atomic Force Microscopy, Secondary Ion Mass Spectroscopy, and other techniques as required.
- 3.1.3. Exchange of Palladium Foils and Compounds between the U.S. DoD and ENEA and conduct of electrochemical characterization tests of the Palladium Foils and Compounds.
- 3.1.4. Exchange of Palladium Foils and Compounds between the U.S. DoD and ENEA and conduct of excess heat experiments to determine repeatability of results in U.S. DoD and ENEA laboratories.
- 3.1.5. Modification of Palladium Foil and Compound fabrication procedures as dictated by the results of characterization of these materials and excess heat experiments.
- 3.1.6. Provision of documentation of methods and procedures of Calorimetry.
- 3.1.7. Charge of Palladium Foils and Compounds with hydrogen isotopes and measure input and output power by Calorimetry.

3.1.8. Assessment and documentation of the ability to generate excess power in experimental cells as a potential energy source for defense use.

3.1.9. Publication of Project summary reports that are releasable to the public.

3.2 The work allocation is shown in the following table:

	<u>U.S. DoD</u>	<u>ENEA</u>
Provision of procedures for fabricating Palladium Foils and Compounds (3.1.1.)		X
Characterization of Palladium Foils and Compounds before and after selected steps in the fabrication procedure using X-ray Diffraction, Optical Scattering Power Spectra, Scanning Electron Microscopy, X-ray Florescence, Optical Microscopy, High Resolution Mass Spectroscopy, Atomic Force Microscopy, Secondary Ion Mass Spectroscopy, and other techniques as required (3.1.2.)		X
Characterization of Palladium Foils and Compounds before and after selected steps in the fabrication procedure using X-ray Diffraction, Electron Backscattering, hardness, Confocal Microscopy, Optical Microscopy, X-ray Florescence, Inductively Coupled Plasma Mass Spectroscopy, X-ray Photo-electron Spectroscopy, Secondary Ion Mass Spectroscopy, and other techniques as required (3.1.2.)	X	
Exchange of Palladium Foils and Compounds between U.S. DoD and ENEA for electro-chemical characterization tests not available at each respective U.S. DoD and ENEA laboratory (3.1.3.)	X	X

Exchange of Palladium Foils and Compounds between the U.S. DoD and ENEA and conduct of excess heat experiments to determine repeatability of results in U.S. DoD and ENEA laboratories (3.1.4.)	X	X
Modification of Palladium Foil and Compound fabrication procedures as dictated by the results of characterization of these materials and excess heat experiments (3.1.5.)	X	X
Provision of documentation of methods and procedures of Calorimetry (3.1.6.)		X
Charge of Palladium Foils and Compounds with hydrogen isotopes and measure input and output power by Calorimetry (3.1.7.)	X	X
Assessment and documentation of the ability to generate excess power in experimental cells as a potential energy source for defense use (3.1.8.)	X	X
Publication of Project summary reports that are releasable to the public (3.1.9.)	X	X

ARTICLE IV

MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)

4.1. This Project shall be directed and administered on behalf of the Parties by an organization consisting of a Steering Committee (SC) and Project Managers (PMs) appointed by the Parties within one month of the date of signature of this Agreement. The SC shall have overall authority over the PMs, in accordance with this Agreement. The PMs shall have primary responsibility for effective implementation, efficient management, and direction of the Project in accordance with this Agreement. The Parties shall maintain and fund their own organizations for managing this Project.

4.2. The SC shall consist of a representative designated by each Party. The SC shall meet annually, with additional meetings held at the request of either representative. Each meeting of the SC shall be chaired by the representative of the Party hosting the meeting. Decisions of the SC shall be made unanimously. In the event that the SC is unable to reach a timely decision on an issue, each SC representative shall refer the issue to its higher authority for resolution. The approved Project Plan shall continue to be implemented without interruption under the direction of the PMs while the issue is being resolved by higher authority.

4.3. The SC shall be responsible for:

- 4.3.1. Exercising executive-level oversight of the Project.
- 4.3.2. Reviewing progress towards accomplishing Article II (Objectives) and Article III (Scope of Work) of this Agreement.
- 4.3.3. Approving the Project Plan submitted by the PMs in accordance with subparagraph 4.6.2. of this Article, and any revisions thereto, and reviewing the technical progress of the Project against the Project Plan. The Project Plan shall include, but not be limited to, a detailed scope of work and corresponding work schedule, as appropriate.

- 4.3.4. Reviewing the financial status of the Project to ensure compliance with the conditions of Article V (Financial Provisions) of this Agreement.
- 4.3.5. Resolving issues brought forth by the PMs.
- 4.3.6. Reviewing and forwarding to the Parties for approval recommended amendments to this Agreement in accordance with Article XVII (Amendment, Termination, Entry into Force, and Duration) of this Agreement.
- 4.3.7. Approving plans to manage and control the transfer of Project Equipment provided by either Party to support the execution of the Project in accordance with Article VII (Project Equipment) of this Agreement.
- 4.3.8. Approving plans for the disposal of jointly acquired Project Equipment under this Agreement in accordance with Article VII (Project Equipment) of this Agreement.
- 4.3.9. Employing its best efforts to resolve, in consultation with the export control authorities of the Party concerned, any export control issues raised by the PM in accordance with subparagraph 4.6.10. of this Article or raised by a Party's SC representative in accordance subparagraph 8.1.2.4. of Article VIII (Disclosure and Use of Project Information) of this Agreement.
- 4.3.10. Providing recommendations to the Parties for the addition of new Parties in accordance with Article XIV (Participation of Additional Nations) of this Agreement.
- 4.3.11. Monitoring Third Party sales and transfers authorized in accordance with Article XII (Third Party Sales and Transfers) of this Agreement.
- 4.3.12. Reviewing the semi-annual status report submitted by the PMs.
- 4.3.13. Providing comments to the PMs on draft summary reports intended for publication.

4.4. Project offices shall be established in Washington, D.C. and in Frascati, Italy, to manage the Project. The Department of the Navy shall appoint the U.S. DoD PM, and the ENEA shall appoint the ENEA PM, both of whom shall be responsible for implementing this Agreement and for carrying out the Project.

4.5. The PMs are completely and wholly responsible for management of those tasks listed as national responsibilities in Article III (Scope of Work) of this Agreement.

4.6. For matters under their cognizance, the PMs shall be responsible for:

- 4.6.1. Managing the cost, schedule, performance requirements, technical, security, and financial aspects of the Project described in this Agreement.
- 4.6.2. Developing a Project Plan, and any necessary revisions thereto, as described in subparagraph 4.3.3. of this Article; submitting the Project Plan and any revisions for SC approval; and implementing the plan and any revisions upon SC approval.
- 4.6.3. Executing the financial aspects of the Project in accordance with Article V (Financial Provisions) of this Agreement.
- 4.6.4. Referring issues to the SC that cannot be resolved by the PM.
- 4.6.5. Developing and recommending amendments to this Agreement to the SC.
- 4.6.6. Developing and implementing SC-approved plans to manage and control the transfer of Project Equipment provided by either Party in accordance with Article VII (Project Equipment) of this Agreement.
- 4.6.7. Forwarding recommendations to the SC for the addition of new Parties in accordance with Article XIV (Participation of Additional Nations) of this Agreement.
- 4.6.8. Monitoring export control arrangements required to implement this Agreement and, if applicable,

referring immediately to the SC any export control issues that could adversely affect the implementation.

- 4.6.9. Providing a semi-annual status report to the SC, and other such reports as directed by the SC.
- 4.6.10. Appointing a Project security officer who will ensure appropriate protection of Information in accordance with the Parties' security procedures and processes.
- 4.6.11. Providing to the SC draft summary reports intended for publication, revising the reports in response to SC comments, and obtaining the required approval to publish the reports.

ARTICLE V
FINANCIAL PROVISIONS

5.1. Each Party shall contribute its equitable share of the full Financial Costs and Non-financial Costs of the Project, including overhead costs, administrative costs, and costs of claims. The assignment of work represents a sharing of work to be performed under the Project, and each Party shall receive a equitable share of the results of the Project.

5.2. Each Party shall fund the full extent of its participation in this Project. The Parties estimate that the performance of the obligations under this Agreement shall not cost more than a Cost Ceiling of 7.36 million Fiscal Year 2010 U.S. dollars. As part of its Financial Costs to the Project, the U.S. DoD shall provide 200,000 U.S. dollars to ENEA to process Palladium into cathodes using unique ENEA technologies. The U.S. dollar shall be the reference currency for the Project, and the Project fiscal year shall be the U.S. fiscal year.

5.3. The full Financial Costs and Non-financial Costs of the Project, as identified in this Article shall be shared according to the following percentages:

<u>Party</u>	<u>Percentage Share</u>
U.S. DoD	50%
ENEA	50%

5.4. The Parties shall use their best efforts to perform, or to have performed, the work specified in Article III (Scope of Work) of this Agreement and fulfill all the obligations under this Agreement within the Cost Ceiling specified in paragraph 5.2. of this Article.

5.5. Each Party shall bear the full Financial Costs and Non-financial Costs it incurs for performing, managing, and administering its activities under this Agreement and all such costs shall be included as part of each Party's contributions to the Project. These costs include financial and non-financial contributions (e.g., salaries, travel, and per diem costs for each Party's Project personnel), as well as any Contract costs. Values have been mutually determined for Project non-financial contributions.

5.6. Cooperative efforts of the Parties over and above the jointly determined work set forth in Article III (Scope of Work) of this Agreement shall be subject to future mutual written consent of the Parties.

5.7. The following costs shall be borne entirely by the Party incurring the costs:

5.7.1. Costs associated with any unique national requirements identified by a Party.

5.7.2. Any other costs outside the scope of this Agreement.

5.8. A Party shall promptly notify the other Party if available funds are not adequate to fulfill its obligations under this Agreement. If a Party notifies the other Party that it is terminating or reducing its funding for this Project, both Parties shall immediately consult with a view toward continuation on a modified basis.

ARTICLE VI

CONTRACTING PROVISIONS

6.1. If either Party determines that Contracting is necessary to fulfill that Party's obligations under Article III (Scope of Work) of this Agreement, that Party shall contract in accordance with its respective national laws, regulations, and procedures. Sources from both Parties' industries shall be allowed to compete on an equal basis for such Contracts.

6.2. When one Party individually contracts to perform a task under this Agreement, it shall be solely responsible for its own Contracting, and the other Party shall not be subject to any liability arising from such Contracts.

6.3. For all Contracting activities performed by either Party, the PMs shall, upon request, be provided a copy of all statements of work prior to the issuance of solicitations.

6.4. Each Party's Contracting Agency shall negotiate to obtain the rights to use and disclose Project Information required by Article VIII (Disclosure and Use of Project Information) of this Agreement. Each Party's Contracting Agency shall insert into its prospective Contracts (and require its subcontractors to insert in subcontracts) suitable provisions to satisfy the requirements of this Agreement, including Article VIII (Disclosure and Use of Project Information), Article IX (Controlled Unclassified Information), Article XI (Security), Article XII (Third Party Sales and Transfers), and Article XVII (Amendment, Termination, Entry into Force, and Duration) of this Agreement, and including export control provisions in accordance with this Agreement, in particular paragraphs 6.5. and 6.6. of this Article. During the Contracting process, each Party's Contracting Officer shall advise Prospective Contractors of their responsibility to notify immediately the Contracting Agency, before Contract award, if they are subject to any license or agreement that will restrict that Party's freedom to disclose Information or permit its use. The Contracting Officer shall also advise Prospective Contractors to employ their best efforts not to enter into any new agreement or arrangement that will result in restrictions.

6.5. Each Party shall legally bind its Contractors to a requirement that the Contractor shall not retransfer or otherwise use export-controlled Information furnished by the

other Party for any purpose other than the purposes authorized under this Agreement. The Contractor shall also be legally bound not to retransfer the export-controlled Information to another Contractor or subcontractor unless that Contractor or subcontractor has been legally bound to limit use of the Information to the purposes authorized under this Agreement. Export-controlled Information furnished by one Party under this Agreement may only be retransferred by the other Party to its Contractors if the legal obligations required by this paragraph have been established.

6.6. Each Party shall legally bind its Prospective Contractors to a requirement that the Prospective Contractor shall not retransfer or otherwise use export-controlled Information furnished by the other Party for any purpose other than responding to a solicitation issued in furtherance of the purposes authorized under this Agreement. Prospective Contractors shall not be authorized use for any other purpose if they are not awarded a Contract. The Prospective Contractors shall also be legally bound not to retransfer the export-controlled Information to a prospective subcontractor unless that prospective subcontractor has been legally bound to limit use of the export-controlled Information for the purpose of responding to the solicitation. Export-controlled Information furnished by one Party under this Agreement may only be retransferred by the other Party to its Prospective Contractors if the legal obligations required by this paragraph have been established. Upon request by the furnishing Party, the receiving Party shall identify its Prospective Contractors and prospective subcontractors receiving such export-controlled Information.

6.7. In the event a Party's Contracting Agency is unable to secure adequate rights to use and disclose Project Information as required by Article VIII (Disclosure and Use of Project Information) of this Agreement, or is notified by Contractors or Prospective Contractors of any restrictions on the disclosure and use of Information, that Party's PM shall notify the other Party's PM of the restrictions.

6.8. Each Party's PM shall promptly advise the other Party's PM of any cost growth, schedule delay, or performance problems under any Contract for which its Contracting Agency is responsible.

ARTICLE VII

PROJECT EQUIPMENT

7.1. Each Party may provide Project Equipment identified as being necessary for executing the Agreement to the other Party. Project Equipment shall remain the property of the providing Party. A list of all Project Equipment provided by one Party to another shall be developed and maintained by the PM and approved by the SC.

7.2. The receiving Party shall maintain any such Project Equipment in good order, repair, and operable condition. Unless the providing Party has authorized the Project Equipment to be expended or otherwise consumed without reimbursement to the providing Party, the receiving Party shall return the Project Equipment to the providing Party in as good condition as received, normal wear and tear excepted, or return the Project Equipment and pay the cost to restore it. If the Project Equipment is damaged beyond economical repair, the receiving Party shall return the Project Equipment to the providing Party (unless otherwise specified in writing by the providing Party) and pay the replacement value, which shall be computed pursuant to the providing Party's national laws and regulations. If the Project Equipment is lost while in the custody of the receiving Party, the receiving Party shall issue a certificate of loss to the providing Party and pay the replacement value as computed pursuant to the providing Party's national laws and regulations.

7.3. The providing Party shall deliver Project Equipment to the receiving Party at a mutually determined location. Possession of the Project Equipment shall pass from the providing Party to the receiving Party at the time of receipt of the Project Equipment. Any further transportation is the responsibility of the receiving Party.

7.4. All Project Equipment that is transferred shall be used by the receiving Party only for the purposes of carrying out this Agreement, unless otherwise agreed to in writing by the providing Party. In addition, in accordance with Article XII (Third Party Sales and Transfers) of this Agreement, Project Equipment shall not be re-transferred or sold to a Third Party without the prior written consent of the providing Party.

7.5. Project Equipment transferred to one Party under this Agreement shall be returned to the providing Party prior to the termination or expiration of this Agreement.

7.6. Any Project Equipment that is jointly acquired on behalf of both Parties for use under this Agreement shall be disposed of during this Project or when the Project ceases, as determined by the SC.

7.7. Disposal of jointly acquired equipment may include a transfer of the interest of one Party in such Project Equipment to the other Party, or the sale of such Project Equipment to a Third Party in accordance with Article XII (Third Party Sales and Transfers) of this Agreement. The Parties shall share the consideration from jointly acquired Project Equipment transferred or sold to a Third Party in the same ratio as costs are shared under this Agreement.

ARTICLE VIII

DISCLOSURE AND USE OF PROJECT INFORMATION

8.1. General

- 8.1.1. Both Parties recognize that successful collaboration depends on full and prompt exchange of Information necessary for carrying out this Project. The Parties intend to acquire sufficient Project Information and rights to use such Information to enable the accomplishment of Article II (Objectives) and Article III (Scope of Work) of this Agreement. The nature and amount of Project Information to be acquired shall be consistent with the objectives stated in Article II (Objectives) and Article III (Scope of Work) of this Agreement.
- 8.1.2. The following export control provisions shall apply to the transfer of Project Information:
 - 8.1.2.1. Transfer of Project Information shall be consistent with furnishing Party's applicable export control laws and regulations.
 - 8.1.2.2. Unless otherwise restricted by duly authorized officials of the furnishing Party at the time of transfer to the other Party, all export-controlled Information furnished by one Party to the other Party may be retransferred to the other Party's Contractors, subcontractors, Prospective Contractors, and prospective subcontractors, subject to the requirements of paragraphs 6.5. and 6.6. of Article VI (Contracting Provisions) of this Agreement.
 - 8.1.2.3. Export-controlled Information may be furnished by Contractors, subcontractors, Prospective Contractors, and prospective subcontractors of one Party's nation to the Contractors, subcontractors, Prospective Contractors, and prospective subcontractors of the other Party's nation pursuant to this

Agreement, subject to the conditions established in licenses or other approvals issued by the Government of the former Party in accordance with its applicable export control laws and regulations.

- 8.1.2.4. If a Party finds it necessary to exercise a restriction on the retransfer of export-controlled Information as set out in subparagraph 8.1.2.2. of this Article, it shall promptly inform the other Party. If a restriction is then exercised and the affected Party objects, that Party's SC representative shall promptly notify the other Party's SC representative and they shall immediately consult in order to discuss ways to resolve such issues or mitigate any adverse effects.

8.2. Government Project Foreground Information

- 8.2.1. Disclosure: All Project Foreground Information generated by the military personnel or civilian employees of the Government of a Party (hereinafter referred to as "Government Project Foreground Information") shall be disclosed promptly and without charge to the Parties.

- 8.2.2. Use: Each Party may use or have used all Government Project Foreground Information without charge for Defense Purposes. The Party generating Government Project Foreground Information shall also retain all its rights of use thereto. Any sale or other transfer to a Third Party shall be subject to the conditions of Article XIII (Third Party Sales and Transfers) of this Agreement.

8.3. Government Project Background Information

- 8.3.1. Disclosure: Each Party, upon request, shall disclose promptly and without charge to the other Party any relevant Government Project Background Information generated by its military or civilian employees, provided that:

- 8.3.1.1. Such Government Project Background Information is necessary to or useful in the Project, with the Party in possession of the Information determining, after consulting with the requesting Party, whether it is "necessary to" or "useful in" the Project.
 - 8.3.1.2. Such Government Project Background Information may be made available only if the rights of holders of Intellectual Property rights are not infringed.
 - 8.3.1.3. Disclosure of such Government Project Background Information is consistent with national disclosure policies and regulations of the furnishing Party.
 - 8.3.1.4. Any disclosure or transfer of such Government Project Background Information to Contractors is consistent with the furnishing Party's export control laws and regulations.
- 8.3.2. Use: Government Project Background Information furnished by one Party to the requesting Party may be used without charge by or for the requesting Party for Project purposes. However, subject to Intellectual Property rights held by entities other than the Parties, such Government Project Background Information may be used for Defense Purposes by the requesting Party, without charge, when such Information is necessary for the use of Project Foreground Information. The furnishing Party, in consultation with the other Party, shall determine whether the Government Project Background Information is necessary for the use of Project Foreground Information. The furnishing Party shall retain all its rights with respect to such Government Project Background Information.

8.4. Contractor Project Foreground Information

- 8.4.1. Disclosure: Project Foreground Information generated and delivered by Contractors (hereinafter referred to as "Contractor Project

Foreground Information") shall be disclosed promptly and without charge to both Parties.

8.4.2. Use: Each Party may use or have used without charge for Defense Purposes all Contractor Project Foreground Information generated and delivered by Contractors of the Parties. The Party whose Contractors generate and deliver Contractor Project Foreground Information shall also retain all its rights of use thereto in accordance with the applicable Contracts. Any sale or other transfer to a Third Party of Contractor Project Foreground Information shall be subject to the conditions of Article XII (Third Party Sales and Transfers) of this Agreement.

8.5. Contractor Project Background Information

8.5.1. Disclosure: A Contracting Party shall make available to the other Party promptly and without charge all Contractor Project Background Information generated by Contractors that is delivered under Contracts awarded in accordance with this Agreement. Any other Project Background Information that is generated by Contractors and that is in the possession of one Party shall be made available promptly and without charge to the other Party, upon its request, provided the following conditions are met:

8.5.1.1. Such Contractor Project Background Information is necessary to or useful in the Project, with the Party in possession of the Information determining, after consultation with the requesting Party, whether it is "necessary to" or "useful in" the Project.

8.5.1.2. Such Contractor Project Background Information may be made available only if the rights of holders of Intellectual Property rights are not infringed.

8.5.1.3. Disclosure of such Contractor Project Background Information is consistent with

national disclosure policies and regulations of the furnishing Party.

8.5.1.4. Any disclosure or transfer of such Contractor Project Background Information to Contractors is consistent with the furnishing Party's export control laws and regulations.

8.5.2. Use: All Contractor Project Background Information delivered by Contractors under Contracts awarded in accordance with this Agreement may be used by or for the receiving Party, without charge, for Defense Purposes, subject to any restrictions by holders of Intellectual Property rights other than the Parties. Any other Contractor Project Background Information furnished by one Party's Contractors and disclosed to a requesting Party may be used without charge by the requesting Party for Project purposes, subject to any restrictions by holders of Intellectual Property rights other than the Parties; also, when necessary for the use of Project Foreground Information, such other Contractor Project Background Information may be used by the requesting Party for Defense purposes, subject to such fair and reasonable terms as may be necessary to be arranged with the Contractor. The furnishing Party, in consultation with the requesting Party, shall determine whether such other Contractor Project Background Information is necessary for the use of Project Foreground Information. The furnishing Party shall retain all its rights with respect to Contractor Project Background Information.

8.6. Alternative Uses of Project Information

8.6.1. Any Project Background Information provided by one Party shall be used by the other Party only for the purposes set forth in this Agreement, unless otherwise consented to in writing by the providing Party.

8.6.2. The prior written consent of each Party shall be required for the use of Project Foreground

Information for purposes other than those provided for in this Agreement.

8.7. Proprietary Project Information

- 8.7.1. All Project Information that is subject to disclosure and use restrictions with respect to Intellectual Property rights shall be identified and marked, and it shall be handled as Controlled Unclassified Information or as Classified Information, depending on its security classification.
- 8.7.2. The provisions of the NATO Agreement on the Communication of Technical Information for Defence Purposes, done at Brussels on October 19, 1970, and the Implementing Procedures for the NATO Agreement on the Communication of Technical Information for Defence Purposes, approved by the North Atlantic Council on January 1, 1971 (or any successor agreement and procedures) shall apply to Project Information that is subject to Intellectual Property rights.

8.8. Patents

- 8.8.1. Each Party shall include in all its Contracts for the Project a provision governing the disposition of rights in regard to Project Inventions and Patent rights relating thereto that either:
 - 8.8.1.1. Provides that the Party shall hold title to all such Project Inventions together with the right to make Patent applications for the same, free of encumbrance from the Contractor concerned; or
 - 8.8.1.2. Provides that the Contractor shall hold title (or may elect to retain title) for such Project Inventions together with the right to make Patent applications for the same, while securing for the Parties a license for the Project Inventions, and any Patents thereto, on terms in compliance with the conditions of subparagraph 8.8.2. of this Article.

- 8.8.2. In the event that a Contractor owns title (or elects to retain title) to any Project Invention, the Contracting Party shall secure for the other Party non-exclusive, irrevocable, royalty-free licenses under all Patents secured for that invention, to practice or have practiced the patented Project Invention throughout the world for Defense Purposes.
- 8.8.3. The conditions of subparagraphs 8.8.4. through 8.8.7. of this Article shall apply in regard to Patent rights for all Project Inventions made by the military personnel or civilian employees of the Government of a Party, including those within Government-owned facilities, and for all Project Inventions made by Contractors for which the Contracting Party holds title or is entitled to acquire title.
- 8.8.4. When a Party has or can secure the right to file a Patent application with regard to a Project Invention, that Party shall consult with the other Party regarding the filing of such Patent application. The Party that has or receives title to such Project Invention shall, in other countries, file, cause to be filed, or provide the other Party with the opportunity to file on behalf of the Party holding title, Patent applications covering that Project Invention. A Party shall immediately notify other Party that a Patent application has been filed. If a Party, having filed or caused to be filed a Patent application, abandons prosecution of the application or ceases maintaining the Patent granted or issued on the application, that Party shall notify the other Party of that decision and permit the other Party to continue the prosecution or maintain the Patent as the case may be.
- 8.8.5. Each Party shall be furnished with copies of Patent applications filed and Patents granted with regard to Project Inventions.
- 8.8.6. Each Party shall grant to the other Party a non-exclusive, irrevocable, royalty-free license under its Patents for Project Inventions, to

practice or have practiced the Project Invention throughout the world for Defense Purposes.

8.8.7. Patent applications to be filed, or assertions of other Intellectual Property rights, under this Agreement that contain Classified Information shall be protected and safeguarded in a manner no less stringent than the requirements contained in the NATO Agreement for the Mutual Safeguarding of Secrecy of Inventions Relating to Defence and for Which Applications for Patents Have Been Made, done in Paris on September 21, 1960, and its Implementing Procedures (or any successor agreement and procedures).

8.9. Each Party shall notify the other Party of any Intellectual Property infringement claims brought against that Party arising in the course of work performed under the Project on behalf of the other Party. Insofar as possible, the other applicable Party shall provide Information available to it that may assist in defending such claims. Each Party shall be responsible for handling such Intellectual Property infringement claims brought against it, and shall consult with the other Party during the handling, and prior to any settlement, of such claims. The Parties shall share the costs of resolving such Intellectual Property infringement claims in the same ratio for cost sharing established in paragraph 5.3. of Article V (Financial Provisions) of this Agreement.

8.10. The Parties shall, as permitted by their national laws, regulations, and practices, give their authorization and consent for all use and manufacture in the course of work performed under the Project of any invention covered by Patent, or as determined to be necessary for work under the Project, authorization and consent for non-commercial copyright, granted or otherwise provided by their respective countries.

ARTICLE IX

CONTROLLED UNCLASSIFIED INFORMATION

9.1. Except as otherwise provided in this Agreement or as authorized in writing by the originating Party, Controlled Unclassified Information provided or generated pursuant to this Agreement shall be controlled as follows:

- 9.1.1. Such Information shall be used only for the purposes authorized for use of Project Information as specified in Article VIII (Disclosure and Use of Project Information) of this Agreement.
 - 9.1.2. Access to such Information shall be limited to personnel whose access is necessary for the permitted use under subparagraph 9.1.1. of this Article, and shall be subject to the conditions of Article XII (Third Party Sales and Transfers) of this Agreement.
 - 9.1.3. Each Party shall take all lawful steps available to it, including national classification, to keep such Information free from further disclosure (including requests under any legislative provisions), except as provided in subparagraph 9.1.2. of this Article, unless the originating Party consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the Information may have to be further disclosed under any legislative provision, immediate notification shall be given to the originating Party.
- 9.2. To assist in providing the appropriate controls, the originating Party shall ensure that Controlled Unclassified Information is appropriately marked to ensure its "in confidence" nature. The Parties' export-controlled Information shall be marked in accordance with the applicable Party's export control markings as documented in the appropriate Project documentation approved by the SC, such as the Project Plan. The SC shall also decide, in advance and in writing, on the markings to be placed on any other types of Controlled Unclassified Information and shall describe such markings in the appropriate Project documentation.

9.3. Controlled Unclassified Information provided or generated pursuant to this Agreement shall be handled in a manner that ensures control as provided for in paragraph 9.1. of this Article.

9.4. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Parties shall ensure the Contractors are legally bound to control such Information in accordance with the conditions of this Article.

ARTICLE X
VISITS TO ESTABLISHMENTS

10.1. Each Party shall permit visits to its Government establishments, agencies and laboratories, and Contractor industrial facilities by employees of the other Party or by employees of the other Party's Contractors, provided that the visit is authorized by both Parties and the employees have any necessary and appropriate security clearances and a need-to-know.

10.2. All visiting personnel shall be required to comply with security regulations of the hosting Party. Any Information disclosed or made available to visitors shall be treated as if supplied to the Party sponsoring the visiting personnel, and shall be subject to the conditions of this Agreement.

10.3. Requests for visits by personnel of one Party to a facility of the other Party shall be coordinated through official channels, and shall conform with the established visit procedures of the hosting Party. Requests for visits shall bear the name of the Project.

10.4. Lists of personnel of each Party required to visit, on a continuing basis, facilities of the other Party shall be submitted through official channels in accordance with recurring international visit procedures.

ARTICLE XI

SECURITY

11.1. It is the intent of the Parties that the Project carried out under this Agreement shall be conducted at the unclassified level. No Classified Information shall be provided or generated under this Agreement.

ARTICLE XII
THIRD PARTY SALES AND TRANSFERS

12.1. Except to the extent permitted in paragraph 12.2. of this Article, the Parties shall not sell, transfer title to, disclose, or transfer possession of Project Foreground Information or any item produced either wholly or in part from Project Foreground Information to any Third Party without the prior written consent of the Government of the other Party. Furthermore, neither Party shall permit any such sale, disclosure, or transfer, including by the owner, without the prior written consent of the Government of the other Party. Such consent shall not be given unless the Government of the intended recipient confirms in writing with the Parties that it shall:

12.1.1. Not retransfer, or permit the further retransfer of, any equipment or Information provided.

12.1.2. Use, or permit the use of, the equipment or Information provided only for the purposes specified by the Parties.

12.2. Each Party shall retain the right to sell, transfer title to, disclose, or transfer possession of Project Foreground Information or any item produced wholly from Project Foreground Information:

12.2.1. That is generated solely by either that Party or that Party's Contractors in the performance of that Party's work allocation under Article III (Scope of Work) of this Agreement.

12.2.2. That does not include any Project Foreground Information or Project Background Information of the other Party, and whose generation, test, or evaluation has not relied on the use of Project Equipment of the other Party.

12.3. In the event questions arise as to whether the Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) that a Party intends to sell, transfer title to, disclose, or transfer possession of to a Third Party is within the scope of paragraph 12.2. of this Article, the matter shall be brought to the

immediate attention of the other Party's PM. The Parties shall resolve the matter prior to any sale or other transfer of such Project Foreground Information (or any item produced either wholly or in part from the Project Foreground Information) to a Third Party.

12.4. A Party shall not sell, transfer title to, disclose, or transfer possession of Project Equipment or Project Background Information provided by the other Party to any Third Party without the prior written consent of the Government of the other Party that provided such equipment or Information. The providing Party's Government shall be solely responsible for authorizing such transfers and, as applicable, specifying the method and conditions for implementing such transfers.

ARTICLE XIII

LIABILITY AND CLAIMS

13.1. For liability arising out of, or in connection with, activities undertaken in the performance of official duty in the execution of the Agreement, the following conditions shall apply:

- 13.1.1. Claims against a Party or its military or civilian personnel shall be dealt with in accordance with the terms of applicable multilateral or bilateral treaties and agreements of the Parties.
- 13.1.2. For those claims for which multilateral or bilateral treaties or agreements do not apply, the following conditions shall apply:
 - 13.1.2.1. With the exception of claims for loss of or damage to Project Equipment, which are addressed in Article VII (Project Equipment) of this Agreement, each Party waives all claims against the other Party in respect to injury to or death of its military or civilian personnel and for damage to or loss of its property (including its interest in jointly acquired equipment) caused by such personnel of the other Party. However, if the Parties determine that such injury, death, damage, or loss results from reckless acts or reckless omissions, willful misconduct or gross negligence of a Party's military or civilian personnel, the costs of any liability shall be borne by that Party alone.
 - 13.1.2.2. Claims from any other persons for injury, death, damage, or loss of any kind caused by one of the Parties' military or civilian personnel shall be processed by the most appropriate Party, as determined by the Parties. Any costs determined to be owed the claimant shall be borne by the Parties in the same ratios as their financial and

non-financial contributions specified in this Agreement. However, if the Parties determine that such injury, death, damage, or loss results from reckless acts or reckless omissions, willful misconduct, or gross negligence of a Party's military or civilian personnel, the costs of any liability shall be borne by that Party alone.

13.2. If a person or entity, other than the Party's military or civilian personnel, damages jointly acquired equipment, and the cost of making good such damage is not recoverable from such person or entity, such cost shall be borne by the Parties in the same ratios as their financial and non-financial contributions specified in this Agreement.

13.3. Claims arising under any Contract awarded under this Agreement shall be resolved in accordance with the conditions of the Contract.

13.4. Employees and agents of Contractors are not considered civilian personnel of a Party for the purposes of this Article.

ARTICLE XIV

PARTICIPATION OF ADDITIONAL NATIONS

14.1. It is recognized that other national defense organizations may wish to join the Project.

14.2. The mutual consent of the Parties shall be required to conduct discussions with potential additional Parties. The Parties shall discuss the conditions under which another Party might join, including the furnishing of releasable Project Information for evaluation prior to joining. If the disclosure of Project Information is necessary to conduct discussions, such disclosure shall be in accordance with Article VIII (Disclosure and Use of Project Information), Article IX (Controlled Unclassified Information), and Article XII (Third Party Sales and Transfers) of this Agreement.

14.3. The Parties shall jointly formulate the conditions under which additional Parties might join. The addition of new Parties to the Project shall require amendment of this Agreement by the Parties.

ARTICLE XV

CUSTOMS DUTIES, TAXES, AND SIMILAR CHARGES

15.1. Customs duties, import and export taxes, and similar charges shall be administered in accordance with each Party's respective laws and regulations. Insofar as existing national laws and regulations permit, the Parties shall endeavor to ensure that such readily identifiable customs duties, import and export taxes, and similar charges, as well as quantitative or other restrictions on imports and exports, are not imposed in connection with work carried out under this Project.

15.2. Each Party shall use its best efforts to ensure that customs duties, import and export taxes, and similar charges are administered in a manner favorable to the efficient and economical conduct of the work of this Project. If any such customs duties, import and export taxes, or similar charges are levied, the Party in whose country they are levied shall bear such costs over and above that Party's shared costs of the Project.

15.3. If, in order to apply European Union (EU) regulations, it is necessary to levy duties, then these shall be met by the EU member end recipient. To this end, parts of the components of the equipment coming from outside the EU shall proceed to their final destination accompanied by the relevant customs document enabling settlement of duties to take place. The duties shall be paid as a cost over and above that EU Party's shared cost the Project.

ARTICLE XVI
SETTLEMENT OF DISPUTES

16.1. Disputes between the Parties arising under or relating to this Agreement shall be resolved only by consultation between the Parties and shall not be referred to a national court, an international tribunal, or to any other person or entity for settlement.

ARTICLE XVII

AMENDMENT, TERMINATION, ENTRY INTO FORCE, AND DURATION

17.1. All activities of the Parties under this Agreement shall be carried out in accordance with their respective national laws and regulations, including their respective export control laws and regulations. The obligations of the Parties shall be subject to the availability of funds for such purposes.

17.2. No requirement shall be imposed by either Party for work sharing or other industrial or commercial compensation in connection with this Agreement that is not in accordance with this Agreement.

17.3. In the event of a conflict between an Article of this Agreement and any Annex to this Agreement, the Article of the Agreement shall control.

17.4. Except as otherwise provided, this Agreement may be amended by the mutual written consent of the Parties.

17.5. This Agreement may be terminated at any time upon the written consent of the Parties. In the event both Parties consent to terminate this Agreement, the Parties shall consult prior to the date of termination to ensure termination in the most economical and equitable manner.

17.6. Either Party may terminate this Agreement upon 90 days written notification to the other Party of its intent to terminate. Such notice shall be the subject of immediate consultation by the SC to decide upon the appropriate course of action to conclude the activities under this Agreement. In the event of such termination, the following rules apply:

17.6.1. The Party terminating this Agreement shall continue participation, financial or otherwise, up to the effective date of termination.

17.6.2. Each Party shall be responsible for its own Project-related costs associated with termination of the Project.

17.6.3. All Project Information and rights therein received under the conditions of this Agreement prior to the termination of this Agreement shall

be retained by the Parties, subject to the conditions of this Agreement.

17.7. The respective rights and obligations of the Parties regarding Article VII (Project Equipment), Article VIII (Disclosure and Use of Project Information), Article IX (Controlled Unclassified Information), Article XI (Security), Article XII (Third Party Sales and Transfers), and Article XIII (Liability and Claims), Article XVI (Settlement of Disputes), and this Article XVII (Amendment, Termination, Entry into Force, and Duration) of this Agreement shall continue to apply notwithstanding termination or expiration of this Agreement.

17.8. This Agreement, which consists of seventeen (17) Articles, shall enter into force upon signature by both Parties and shall remain in force for four years. It may be extended by written concurrence of the Parties.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their Governments, have signed this Agreement.

DONE, in duplicate, in the English language.

FOR THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF
AMERICA



Signature

S. S. VOETSCH

Rear Admiral, U.S. Navy

Name

Deputy Assistant Secretary of the
Navy (International Programs)

Title

MAY 26 2010

Date

Arlington, Virginia

Location

FOR THE NATIONAL AGENCY FOR
NEW TECHNOLOGIES, ENERGY AND
SUSTAINABLE ECONOMIC
DEVELOPMENT OF THE REPUBLIC
OF ITALY



Signature

DR. GIOVANNI LELLI

Name

Commissioner, National Agency for
New Technologies, Energy and
Sustainable Economic Development

Title

- 6 AGO. 2010

Date

Rome

Location